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MYSORE LEGISLATURE

NOTIFICATION.

No. 12106—L.A., Bangalore-1, dated 16th January 1965.

The Report of the Joint Select Committee on the Mysore Excise Bill, 1964 and the Bill as reported by the Joint Select Committee and as presented to the Legislative Assembly and the Legislative Council on 16th January, 1965 are hereby published.

REPORT OF THE JOINT SELECT COMMITTEE ON THE MYSORE EXCISE BILL, 1962

Composition of the Joint Select Committee.

Sriyuths.—

1. M. V. RAMA RAO (*Minister for Law*) (*Chairman*).
2. H. D. DEVE GOWDA.
3. GANGADHAR NAMOSHI.
4. T. S. SIVANNA.
5. K. LAKKAPPA.
6. VIDHYADHAR GURUJI.
7. S. RUDRAPPA.
8. M. R. PATTANNA SHETTY.
9. K. M. DEVIAH.
10. KADIDAL MANJAPPA.
11. M. N. NAGANOOR.
12. A. P. APPANNA.
13. A. G. BANDI GOWDA.
14. T. G. SATHYANARAYANA.
15. M. MADHVARAJ.
16. SMT. G. C. BHAGEERATHAMMA.
17. J. B. MALLARADHYA.
18. K. S. CHANNAPPA.
19. R. B. NAIK.
*20. H. BAṢAPPA.
21. SMT. ABBASIA BEGUM MECCI.

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* *Ceased to be a member with effect from 13th May, 1964.*

DRAFTSMEN.

SRI R. SANJEEVALU,
Secretary to Government, Law Department.

SRI M. A. SRIKRISHNA,
Draftsman, Law Department.

SRI M. L. RAMASWAMI,
Deputy Draftsman, Law Department.

SECRETARIAT.

SRI G. S. VENKATARAMANA IYER (*Secretary*).

SRI V. B. DESHMUKH (*Under Secretary*).

REPORT OF THE JOINT SELECT COMMITTEE ON THE MYSORE EXCISE BILL, 1962.

(*Presented on 16th January, 1965*).

I, the Chairman of the Joint Select Committee to which the Mysore Excise Bill, 1962, was referred, having been authorised to submit the report, present this Report with the Bill as amended by the Committee annexed thereto.

2. The Bill was published in the *Mysore Gazette* on 21st June 1962.

3. The Bill was introduced in the Legislative Assembly on 3rd December 1962. The Legislative Assembly discussed the motion for consideration on 11th December 1963. The motion for reference of the Bill to a Joint Select Committee in the House—*vide* Appendix–I–was moved by me on 11th December 1963 and was discussed and adopted in the Legislative Assembly on the same day.

4. The Legislative Council discussed the motion on 30th December 1963 and concurred in the motion on the next day–*vide* Appendix II.

5. The Committee held sittings on 27th and 28th April and on 1st, 2nd, 3rd and 4th June 1964 and 18th December, 1964.

6. The Committee considered the report on 18th December 1964 and adopted it on same day. The Committee authorised me to present this report.

7. The observations of the Committee with regard to the principal changes proposed in the Bill are detailed in the succeeding paragraphs.

8. *Clause* 2, *sub-clause* (3).—The Committee are of the opinion that all liquor produced or manufactured in India should be called Indian liquor and not country liquor. The sub-clause has accordingly been amended.

9. *Clause* 5.—The Committee are of the opinion that provision should be made for the appointment of a District Excise Officer for part of a District and also Assistant District Excise Officers to exercise such powers and perform such duties as the State Government may direct. The clause has therefore been suitably amended.

10. *Clause* 8, *sub-clause* (1).—The Committee consider that intoxicants should not be imported except under a permit and on payment of countervailing duty and fees, as may be levied under the Act, and that in the case of intoxicants which have been subject to duty under the Indian Tariff Act, 1934, or any other law relating to customs duty, no countervailing duty should be payable. The sub-clause has accordingly been amended.

11. *Clause* 9, *sub-clause* (1).—The Committee consider that export of intoxicant also should be under permits and on payment of such fee as may be levied under the Act and that no such permit should be granted except after the excise duty or countervailing duty to which the intoxicant is liable has been paid. The sub-clause has been amended accordingly.

12. *Original Clause* 10.—The Committee consider that the clause is redundant. Accordingly, the clause has been deleted.

13. *Clause* 11 (*original clause* 12).—The Committee consider that no exception need be made in the case of foreign liquor transported for *bona fide* private consumption or for sale at any place at which the sale of such liquor is duly licensed or permitted. Accordingly the proviso to the clause has been omitted.

14. *Clause* 14 (*original clause* 15).—The Committee consider that it is not necessary to exempt foreign liquor from the operation of sub-clause (2). Hence sub-clause (3) has been omitted.

15. *Clause* 15 (*original clause* 16), *sub-clause* (1).—The Committee consider that the exemption contained in the proviso from obtaining a licence to sell an intoxicant should be subject to such restrictions and conditions as the Excise Commissioner may specify. The proviso to the sub-clause has therefore been suitably modified.

16. *Original Clause* 17.—The Committee are of the opinion that the power proposed to be conferred by this clause is not necessary. The clause has therefore been deleted.

17. *Clause* 16 (*original clause* 18), *sub-clause* (1).—The Committee consider that specific provision should be made for the licensing of private bonded ware-houses. New item (d) has therefore been inserted in this sub-clause.

18. *Clause* 21 (*original clause* 23)–*sub-clause* (2).—The Committee consider that the police officer who may require the closure of a shop in cases of riot or unlawful assembly in the vicinity of such shop should not be below the rank of a Sub-Inspector. The sub-clause has accordingly been amended.

19. *Clause* 25 (*original clause* 27)–*sub-clause* (1).—The Committee are of the opinion that sub-clause (1) of the Original clause 27 is not necessary. Accordingly sub-clause (1) has been omitted and sub-clause (2) of that clause renumbered as clause 25.

20. *Clause* 29 (*original clause* 31).—The Committee consider that it is not necessary to provide for cancellation of the licence at the request in writing of the lessee under clause 17 (original clause 19). Accordingly, item (e) of sub-clause (1) has been deleted. The Committee also consider that it is not necessary to provide for payment of any amount to the ex-licensee when the licence is cancelled and the grant is taken under the management of Government. Accordingly, sub-clause (4) has been omitted.

21. *Clause* 30 (*original clause* 32), *sub-clause* (1).—The Committee are of the opinion that a licence should not be withdrawn without notice and should be withdrawn only on the expiration of not less than thirty days' notice in writing. Sub-clause (1) has been accordingly amended. The Committee are also of the opinion that when a licence is withdrawn a part of the licence fee proportionate to the unexpired portion of the term of the licence may be refunded to the licensee, but that no compensation need be paid. Sub-clause (2) has therefore been deleted and sub-clause (3) modified and renumbered as sub-clause (2).

22. *Clause* 32 (*original clause* 34).—The Committee consider that in the case of illegal import, manufacture, etc. of liquor, the punishment should be both imprisonment and fine. The clause has accordingly been modified.

23. *Clause* 37 (*original clause* 39).—The Committee are of the opinion that in the case of adulteration of liquor the punishment should be both imprisonment and fine. The clause has accordingly been amended.

24. *Clause* 38 (*original clause* 40), *sub-clause* (1).—The Committee consider that consumption of liquor by any person in a chemist's shop should be prohibited and there should be no exception in the case of persons employed in the shop. The sub-clause has been accordingly amended.

25. *Clause* 45 (*original clause* 47).—The Committee consider that the wording of the clause should be modified. Accordingly the clause has been suitably modified.

26. *Clause* 55 (*original clause* 57).—The Committee consider that the Deputy Commissioner should not have the power to stop further proceedings against any person concerned or supposed to be concerned in any offence against the Act which he has investigated or which may have been

reported to him. Sub-clause (3) of original clause 57 has therefore been omitted.

27. *Clauses* 61 *and* 62 (*new clauses*).—The Committee are of the opinion that specific provision should be made for appeals to the Deputy Commissioner, Commissioner and the Mysore Revenue Appellate Tribunal against orders passed under the Act and for revision by the State Government in respect of any order. Accordingly, the two new clauses have been inserted.

28. *Clause 66*—(*New clause*).—The Committee are of the opinion that when liquor manufactured in the State on which excise duty has been levied is exported from the State and is subjected to excise or countervailing duty in the place to which it is exported, such part of the excise duty paid on such liquor in the State as the Government may prescribe should be refunded. Accordingly, the new clause has been inserted.

29. *Clause* 67 (*Original clause* 66).—The Committee are of the opinion that provision should be made for exempting or reducing the excise duty on liquor sold for use by the Armed Forces of the Union or for use for bonafide medicinal, scientific, industrial or such like purpose. The clause has accordingly been modified.

30. *Clause 69*—(*Original clause 68*).—The Committee consider that the limitation of six months should not apply in the case of suits filed by the State Government against an Excise Officer. The clause has, accordingly, been amended.

31. *Clause 70*–(*New clause*).—The Committee consider that provision should be made for dealing with offences by companies. Accordingly, the new clause has been inserted.

32. The other amendments made in the Bill are either of minor nature or consequential or intended to improve the wording.

33. The Joint Select Committee recommend that the Bill as amended be passed.

M. V. RAMA RAO,
Chairman,
Joint Select Committee.

Bangalore–1.
18*th December*, *1964*.

G. S. VENKATARAMANA IYER,
Secretary.

APPENDIX I.

(*Vide* Para 3 of the Report.)

Motion in the Legislative Assembly for reference of the Bill to a Joint Select Committee.

"That the Mysore Excise Bill, 1962, be referred to a Joint Select Committee consisting of a total number of 20 members, 15 members from the Legislative Assembly and 5 members from the Legislative Council, that the concurrence of the Legislative Council be obtained therefor and that the following members of this House shall be members of the Joint Select Committee, namely :—

Sriyuths :—

1 H. D. Deve Gowda
2 Gangadhar Namoshi
3 T. S. Sivanna
4 K. Lakkappa
5 Vidhyadharguruji
6 S. Rudrappa
7 M. R. Pattanna Shetty
8 K. M. Devayya
9 Kadidal Manjappa
10 M. N. Naghanoor
11 A. P. Appanna
12 A. G. Bandi Gowda
13 T. G. Satyanarayana
14 M. Madvaraj
15 Smt. G. C. Bhageerathamma

APPENDIX II

(*Vide* Para 4 of the Report.)

Motion in the Legislative Council for reference of the Bill to a Joint Select Committee.

"That this House concurs in the appointment of a Joint Select Committee to consider the Mysore Excise Bill, 1962, consisting of a total number of 20 members, 15 members from the Legislative Assembly and 5 members from the Legislative Council and that the following members of this House shall be members of the Joint Select Committee, namely :—

Sriyuths :—

1 J. B. Mallaradhya
2 K. S. Channappa
3 R. B. Naik
*4 H. Basappa
5 Smt. Abbasia Begum Mecci."

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*Ceased to be a member with effect from 13th May 1964.

[AS REPORTED BY THE JOINT SELECT COMMITTEE]

(Words underlined or side-lined indicate the amendments suggested by the Committee; omissions are indicated by asterisks).

THE MYSORE EXCISE BILL, 1964.

A Bill to provide for a uniform excise law in the State of Mysore.

WHEREAS it is expedient to provide for a uniform law relating to the production, manufacture, possession, import, export, transport, purchase and sale of liquor and intoxicating drugs and the levy of duties of excise there on, in the State of Mysore, and for certain other matters hereinafter appearing;

BE it enacted by the Mysore State Legislature in the Fifteenth Year of the Republic of India as follows:—

CHAPTER I.

PRELIMINARY.

1. Short title, extent commencement and application.—(1) This ct may be called the Mysore Excise Act, 1964.

(2) It extends to the whole of the State of Mysore.

(3) It shall come into force on such date as the State Government may by notification, appoint.

(4) All the provisions of this Act shall be applicable to the areas of the State in which the Mysore Prohibition Act, 1961 (Mysore Act, 17 of 1962) is not in operation and shall apply to such extent as is specified in the said Act in the areas in which the said Act, is in operation.

2. Definitions.—In this Act, unless the context otherwise requires,—

(1) "beer" includes ale, stout and porter

* * * * *

(2) "to bottle" means to transfer liquor from a cask or other vessel to a bottle, jar, flask or similar receptacle for the purpose of

sale, whether any process of manufacture be employed or not, and includes re-bottling ;

(3) " cultivation " includes the tending or protection of a plant during growth and does not necessarily imply raising it from seed ;

(4) " denatured " means subjected to a process prescribed for the purpose of rendering unfit for human consumption ;

(5) " Deputy Commissioner " means any person appointed under section 4 to exercise the powers and to perform the duties of a Deputy Commissioner under this Act and where no such person is appointed, the Deputy Commissioner of the revenue district ;

(6) " excisable article " means,—

(*a*) any liquor ;

(*b*) any intoxicating drug ;

(*c*) opium ; or

(*d*) other narcotic drugs, narcotics and non-narcotic drugs which the State Government may by notification declare to be an excisable article ;

(7) " Excise Commissioner " means the Officer appointed as xcise Commissioner under section 3 ;

(8) " excise duty " and " countervailing duty " means any such excise duty or countervailing duty, as the case may be, as is mentioned in Entry 51 of List II of the Seventh Schedule to the Constitution ;

(9) " Excise Inspector " means an Officer appointed under section 6 ;

(10) " Excise Officer " means the Excise Commissioner, a eputy Commissioner, or any Officer or other person lawfully appointed or invested with powers, under section 5 or 6 ;

(11) " excise revenue " means revenue derived or derivable from any duty, fee, tax, rent, fine or confiscation imposed or ordered under the provisions of this Act or any other law for the time being in force relating to liquor or intoxicating drugs ;

(12) " export " means to take out of the State otherwise than from a Customs station as defined under section 2 of the ustoms Act, 1962 (Central Act 52 of 1962) ;

(13) " foreign liquor " includes all liquors other than Indian liquor ;

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(14) " import " except in the phrase " import into India ", means to bring into the State otherwise than from a customs station as defined under section 2 of the Customs Act, 1962 (Central Act 52 of 1962) ;

(15) " Indian liquor " includes all liquor produced or manufactured in India ;

(16) " intoxicant " means any liquor as defined in clause (18 or any intoxicating drug as defined in clause (17) ;

(17) " intoxicating drug " means,—

(i) the leaves, small stalks and flowering or fruiting tops of the Indian hemp plant * * * including all forms known as bhang, siddi, or ganja ;

(ii) charas, that is, the resin obtained from the Indian hemp plant, which has not been submitted to any manipulations other than those necessary for packing and transport ;

(iii) any mixture with or without neutral materials of any of the above forms of intoxicating drug or any drink prepared therefrom ; and

(iv) any other intoxicating or narcotic substance which the State Government may, by notification, declare to be an intoxicating drug ; such substance not being opium, coca leaf or manufactured drug as defined under section 2 of the Dangerous Drugs Act, 1930 (Central Act 2 of 1930) ;

(18) " liquor " includes—

(*a*) spirits of wine, denatured spirits, wine, beer, toddy and all liquids consisting of or containing alcohol ; and

(*b*) any other intoxicating substance, which the State Government may by notification, declare to be liquor for the purposes of this Act ;

(19) " manufacture " includes every process whether natural or artificial, by which any fermented, spirituous or intoxicating liquor or intoxicating drug is produced or prepared and also re-distillation and every process for the rectification of liquor ;

(20) " notification " means a notification published in the o cial Gazette ;

(21) " place " includes a house, building, shop, booth, tent, vessel, raft and vehicle ;

(22) "Police Station " includes any place which the State 'overnment may, by notification, declare to be a police station for the purpose of this Act ;

(23) "prescribed" means prescribed by rules made under this ct ;

(24) " rectification " includes every process whereby spirits are purified or are coloured or flavoured by mixing any material therewith ;

(25) "sale or selling" includes any transfer otherwise than by way of gift ;

(26) "spirit " means any liquor containing alcohol and obtained by distillation, whether it is denatured or not ;

(27) "toddy" means fermented or unfermented juice drawn from a toddy tree ;

(28) "toddy tree" includes the tree Gulmohwa, coconut, palm, palmyra, date, bagani * * or any tree of the species of palm or palmyra, the fermented or unfermented juice of which contains alcohol and from which toddy or liquor can be prepared ;

(29) "transport" means to move from one place to another within the State, whether the intervening area lies wholly within the State or not.

CHAPTER II.

ESTABLISHMENT AND CONTROL

3. Appointment of Excise Commissioner.—(1) *The State Government may appoint, by notification, an officer not below the rank of a Deputy Commissioner, as Excise Commissioner for the State of Mysore, who, subject to the general or special orders of the State Government in this behalf, shall be the chief controlling authority in all matters connected with the administration of this Act.*

(2) The Excise Commissioner shall exercise all the powers of the Deputy Commissioner in respect of the administration of this Act and shall have the control of the administration of the Excise Department.

4. Deputy Commissioner.—(1) The Deputy Commissioner shall within the limits of his jurisdiction exercise such powers and perform such duties and functions as are assigned by or under the provisions of this Act to a Deputy Commissioner subject to such control as the State Government may from time to time direct.

(2) For the purposes of this Act, all Deputy Commissioners shall be subordinate to the Excise Commissioner.

5. Appointment of District Excise Officers and Assistant District Excise Officers.— (1) *The State Government may appoint an officer as District Excise Officer for a district or part of a district to exercise all or any of the powers and to perform all or any of the duties of a Deputy Commissioner in respect of the administration of this Act, either concurrently with or in subordination to the Deputy Commissioner subject to such control as the State Government may direct.*

(2) *The State Government may appoint such number of Assistant District Excise Officers for a district or part of a district as it thinks fit to exercise such powers and perform such duties as the State Government may direct.*

6. Appointment of Excise Inspectors and other subordinate officers.—(1) *The State Government may appoint Excise Inspectors to exercise the powers and to perform the duties in connection with detection, investigation and trial of offences under this Act.*

(2) *The State Government may appoint subordinate officers of such classes and with such designations, powers and duties und this Act as it may think fit.*

(3) The State Government may, by notification direct that all or any of the powers and duties assigned to an Excise Inspector or subordinate officer under sub-sections (1) and (2), shall be exercised and performed by any officer of the State Government.

(4) The State Government may, by notification, delegate its powers under sub-sections (1), (2) and (3) to the Excise Commissioner, the Deputy Commissioner, the District Excise Officer, or the Assistant District Excise Officer, as the case may be.

7. Delegation.—The State Government may authorise the delegation by the Excise Commissioner or Deputy Commissioner to any person or class of persons specified in such notification, of any powers conferred or duties imposed upon him by or under this Act.

CHAPTER III.

IMPORT, EXPORT AND TRANSPORT.

8. Import of intoxicant.—(1) No intoxicant shall be imported except under a permit granted by the Deputy Commissioner on payment of such countervailing duty and fees, as may be levied under this Act and on such other terms as may be prescribed:

Provided that the Deputy Commissioner may subject such restrictions and conditions as may be prescribed to ensure the collection of the countervailing duty, permit the import of any intoxicant without the payment of the countervailing duty:

Provided further that no countervailing duty shall be payable on any intoxicant which being liable to the payment of duty under the Indian Tariff Act, 1934, or any other law, for the time being in force, relating to the duties of customs on goods imported into India, it has been dealt with according to such law:

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* * * *

(2) The permit granted under sub-section (1), may be cancelled by the Deputy Commissioner for breach of any of the terms subject to which it was granted or for any other reason to be recorded in writing.

9. Export of intoxicant.—(1) No intoxicant shall be exported except under a permit granted by the Deputy Commissioner on payment of such fee as may be levied under this Act and on such terms as may be prescribed:

Provided that no intoxicant produced or manufactured in India shall, save as provided in the section 66, be permitted to be exported unless the excise duty or countervailing duty to which such intoxicant is liable, has been paid.

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(2) A permission granted under sub-section (1) may at any time be cancelled by the Deputy Commissioner for breach of any terms subject to which it was granted or for any other reason to be recorded in writing.

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10. Prohibiting of transport of intoxicant.—The State Government may, by notification, prohibit the transport of intoxicants or any kind of intoxicants from any local area into any other local area.

11. Transport of intoxicant.—No intoxicant exceeding such quantity as may be prescribed either generally or for any local area, shall be transported, except under a permit issued under section 12.

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12. Permits for transport.—(1) The Deputy Commissioner or any other person duly empowered by the State Government in that behalf may issue a permit for the transport of intoxicants.

(2) A permit under sub-section (1) may be either a general permit for definite periods and kinds of particular intoxicants or a special permit for specified occasions and particular consignments only:

Provided that a general permit shall be granted only to persons licensed under this Act and may cover any quantity of liquor transported at any one time not exceeding the quantity specified in the permit.

(3) Every permit under this section shall specify—

(*a*) the name of the persons authorised to transport intoxicants;

(*b*) the period for which the permit is to be in force;

(*c*) the quantity and description of intoxicants for which it is granted; and

(*d*) any other particulars which may be prescribed.

(4) A permit granted under this section shall extend to and include servants and other persons employed by the grantee and acting on his behalf.

CHAPTER IV.

MANUFACTURE, POSSESSION AND SALE.

13. Manufacture, etc, of excisable article prohibited except under a licence.—(1) No person shall,—

(*a*) manufacture or collect an intoxicant;

(*b*) cultivate hemp plant; or

(c) tap a toddy producing tree or draw toddy from any tree; or

(*d*) construct or work a distillery or brewery; or

(*e*) bottle liquor for sale; or

(*f*) use, keep, or have in his possession any materials, still, utensil, implement or apparatus, whatsoever for the purpose of manufacturing any intoxicant other than toddy,

except under the authority and subject to the terms and conditions of a licence granted by the Deputy Commissioner in that behalf or under the provisions of section 18.

(2) A licence granted under this section shall extend to and include servants and other persons employed by the licensee and acting on his behalf.

14. Possession of excisable articles in excess of the quantity prescribed.—(1) The State Government may, by notification, prescribe a limit of quantity for the possession of any intoxicant:

Provided that different limits may be prescribed for different qualities of the same article.

(2) No person shall have in his possession any quantity of any intoxicant in excess of the limit prescribed under sub-section (1), except under the authority and in accordance with the terms and conditions of—

(*a*) a licence for the manufacture, cultivation, collection, sale or supply of such article, or

(*b*) a permit granted by the Deputy Commissioner in that behalf.

15. Sale of excisable articles without licence prohibited.—(1) No intoxicant shall be sold except under the authority and subject to the terms and conditions of a licence granted in that behalf:

Provided that, subject to such restrictions and conditions as the Excise Commissioner may by general or special order specify,—

(*a*) a person having the right to the toddy drawn from any tree may sell such toddy without a licence to a person licensed to manufacture or sell toddy under this Act;

(*b*) a cultivator or owner of any plant from which an intoxicating drug is produced may sell without a licence those portions of the plant from which the intoxicating d g is manufactured or produced, to any person licensed under this Act to sell, manufacture or export intoxicating drugs or to any officer, whom the Excise Commissioner may generally or specially authorise.

(2) A licence for sale under sub-section (1) shall be granted

(*a*) by the Deputy Commissioner, if the sale is within district, or

(*b*) by the Excise Commissioner, if the sale is in more than one district :

Provided that subject to such conditions as may be determined by the Excise Commissioner, a licence for sale granted under the cise law in force in any other State may be deemed to be a licence granted under this Act.

(3) Nothing in this section shall apply to the sale of any liquor lawfully procured by any person for his private use and ld by him or on his behalf or on behalf of his representatives in interest upon his quitting a station or after his decease.

(4) Notwithstanding anything contained in sub-section (1) and 2 , no club shall supply liquor to its members on payment of a price or of any fee or subscription except under the authority of and subject to the terms and conditions of a licence granted in that behalf by the xcise Commissioner and on payment of such fees according to a scale of fees to be fixed by the State Government in this behalf.

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16. **Establishment of distilleries and warehouses.**—(1) The Excise ommissioner may, with the previous sanction of the State overnment,—

(*a*) establish a distillery, in which spirit may be manufactured under licence granted under section 13 on such conditions as the State Government may impose ;

(*b*) discontinue any distillery so established ;

(*c*) licence, on such conditions as the State Government deems fit to impose, the construction and working of a distillery or brewery ;

(*d*) licence a private bonded warehouse ;

(*e*) establish or licence a warehouse wherein intoxicants may be deposited and kept without payment of duty ; and

(*f*) discontinue any warehouse so established.

(2) A warehouse established under sub-section (1) shall be for general accommodation * * to warehouse intoxicants subject to duty pending removal for local consumption or for export

(3) Without the sanction of the State Government no intoxicant shall be removed from any distillery, brewery, warehouse or other place of storage established or licensed under this Act, unless the duty, if any, imposed under this Act has been paid or a bond has been executed for the payment thereof.

17. Power to grant lease of right to manufacture, etc.—(1) The State Government may lease to any person, on such conditions and for such period as it may think fit, the exclusive or other right—

(*a*) of manufacturing or supplying by wholesale or of both, or
(*b*) of selling by wholesale or by retail, or
(*c*) of manufacturing or supplying by wholesale, or of both, and of selling by retail any Indian liquor or intoxicating drug within any specified area.

(2) The licensing authority may grant to a lessee under sub-section (1) a licence in the terms of his lease: and when there is no condition in the lease, which probibits sub-letting may, on the application of the lessee, graut licences to any sub-lessee approved by such authority.

18. Lessee's permission to draw toddy.—Where a right to manufacture toddy has been leased under section 17, the State Government may declare that the written permission of the lessee to draw toddy shall have the same force and effect as a licence under section 13 from the Deputy Commissioner for that purpose.

19. Duties of licensees with regard to measurement and testing. Every person, who manufactures or sells any intoxicant under a licence granted under this Act shall be bound—

(*a*) to provide himself with such measures, weights and instruments as the Excise Commissioner may prescribe and to keep the same in good condition and on the licensed premises, and

(*b*) on the requisition of the Excise Officer duly empowered in that behalf, at any time to measure, weigh or test any intoxicant in his possession in such manner as the said Excise Officer may require.

20. Prohibition of employment of children and of women.—(1) A person, who is licensed to sell any intoxicant for consumption on his

premises shall, during the hours in which such premises are kept open for persons, employ or permit to be employed, either with or without remuneration, any children under such age as the State Government ay, by rule, prescribe in this behalf, in any part of such premises in which such excisable article is consumed by the public.

(2) No person who is licensed to sell any intoxicant for consumption at his premises shall, without the previous permission in writing of the Deputy Commissioner, during the hours in which such premises are kept open for persons, employ or permit to be employed, either with or without remuneration, any women in any part of such premises in which such excisable article is consumed by the public.

(3) Every permission granted under sub-section (2) shall be endorsed on the licence and may be modified and withdrawn.

21. Closing of shops for the preservation of public peace.—(1) The istrict Magistrate may, by notice in writing to the licensee require that any shops in which any intoxicant is sold shall be closed at such times and for such period as he may think necessary for the preservation of the public peace.

(2) If any riot or any unlawful assembly is apprehended or occurs in the vicinity of any such shop, any Magistrate or any Police ficer not below the rank of a Sub Inspector, who is present, may require such shop to be kept closed for such period as he may think necessary :

Provided that where a riot or unlawful assembly so occurs, the licensee shall in the absence of such Magistrate or Officer, close the shop without any order and keep it closed during the continuance of such riot or unlawful assembly.

CHAPTER V.

EXCISE DUTY AND COUNTERVAILING DUTY.

22. Excise duty or countervailing duty on excisable articles.—(1) excise duty at such rate or rates as the State Government ay prescribe, shall be levied on any excisable article manufactured

or produced in the State under any licence or permit granted under this Act.

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(2) A countervailing duty at such rate or rates as the State Government, may prescribe shall be levied on any excisable article manufactured or produced in India outside the State and imported into the State under a licence or permit granted under this Act.

(3) The rates prescribed under sub-sections (1) and (2) may be different for different kinds of excisable articles and may also b different when levied in the different ways specified in section 23.

23. Ways of levying such duties.—Subject to such rules regulating the time, place and manner, as may be prescribed, excise duty and countervailing duty under section 22 shall be levied in one or more of the following ways as may be prescribed, namely :—

(*a*) rateably on the quantity of any excisable article produced or manufactured in or issued from a distillery, brewery, manufactory or warehouse, or imported into the State :

(*b*) in the case of spirit or other liquor produced in any distillery established or any distillery, brewery o manufactory licensed under this Act, in accordance with its quality or strength, or in accordance with such scale of equivalents calculated on the quantity of materials used, or by the degree of attenuation of the wash or wort, as the case may be, as may be prescribed ;

(*c*) in the case of toddy, by tax on each tree from which to y is drawn ;

(*d*) by fees on licences in respect of the manufacture or sale of any excisable article.

EX. B.

24. Excise duty in respect of grant of leases.—Notwithstanding anything contained in sections 22 and 23, the sum accepted in consideration of the grant of any lease relating to any excisable article under section 17, shall be the excise duty or countervailing duty payable in respect of such excisable article in addition to any duty payable under sections 22 and 23.

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25. Tax for tapping trees from whom leviable.—When duty is levied by way of tax on toddy trees under section 23, and toddy trees are tapped without licence, the tax due shall be recoverable primarily from the tapper or in default by him, from the occupier, if any, of the land, or if the trees do not belong to the occupier of the land, or if the land is not occupied, from the person, if any, who owns or is in possession of the trees, unless he proves that the trees were tapped without his consent.

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CHAPTER VI.

LICENCES AND PERMITS.

26. Form and conditions of licence, etc.—(1) Every licence or permit granted under this Act shall be granted on payment of such fees, for such period, and subject to such restrictions and on such conditions, and shall be in such form and shall contain such particulars, as may be prescribed.

(2) The conditions prescribed under sub-section (1) may include provision of accommodation by the licensee to Excise Officers at the licenced premises or the payment of rent or other charges for such accommodation at or near the licensed premises, and the payment of the costs, charges and expenses (including the salaries and allowances of the Excise Officers) which the State Government

may incur in connection with supervision to ensure compliance with the provisions of this Act, the rules made thereunder and the licence.

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27. Power to take security and counterpart agreement. Subject to such rules as may be prescibed, any authority granting a licence under this Act may require the licensee— *

(*a*) to give * security for the observance of the terms of his licence, * * * * * * and

(*b*) to execute a counterpart agreement in conformity with the tenor of his licence.

28. Technical defects, irregularities and omissions.—(1) No licence granted under this Act shall be deemed to be invalid by reason merely of any technical defect, irregularity or omission in the licence or in any proceedings taken prior to the grant thereof.

(2) The decision of the Excise Commissioner as to what is a technical defect, irregularity or omission, shall be final.

29. Power to cancel or suspend licence, etc.—(1) Subject to such restrictions as the State Government may prescribe, the authority granting any licence or permit under this Act may cance or suspend it,—

(*a*) if any duty or fee payable by the holder thereof is not duly paid ; or

(*b*) in the event of any breach by the holder thereof, or by any of his servants or by any one acting on his behalf with his express or implied permission, of any of the terms and conditions thereof ; or

(*c*) if the holder thereof or any of his servants or any one acting on his behalf with his express or implied permission, is convicted of any offence under this Act, or

(*d*) if the holder thereof is convicted of any cognizable and non-bailable offence or of any offence under the Dangerous Drugs Act, 1930, or under the Medicinal and Toilet Preparations (Excise Duties) Act, 1955, or under the Trade and Merchandise Marks Act, 1958, or under section 481, 482, 483, 484, 485, 486, 487, 488, or 489 of the Indian Penal Code or of any offence punishable under section 112 or 114 * * * of the * Customs Act, 1962; or

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(*e*) if the conditions of the licence or permit provide for such cancellation or suspension at will.

(2) Where a licence or permit held by any person is cancelled under clause (*a*), clause (*b*), clause (*c*) or clause (*d*) of sub-section (1), the authority aforesaid may cancel any other licence or permit granted to such person under this Act or under the Opium Act, 1878.

(3) The holder shall not be entitled to any compensation for its cancellation or suspension nor to the refund of any fee paid or deposit made in respect thereof.

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30. Power to withdraw licence.—(1) Whenever the authority which granted any licence under this Act considers that such licence should be withdrawn for any cause other than those specified in section 29, it * * * * * * * * may withdraw the licence on the expiration of not less than thirty days' notice in writing of its intention to do so.

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(2) When a licence is withdrawn under sub-section (1), * a part of the licence fee proportionate to the unexpired portion of the term of the licence and the deposit made by the licensee in respect thereof shall be refunded to him after deducting the amount (* due from him to the State Government.

31. Surrender of licence.—(1) Any holder of a licence granted under this Act to sell an excisable article may surrender his licence on the expiration of one month's notice in writing given by him to the Deputy Commissioner of his intention to surrender the same and on payment of the fee payable for the licence for the remainder of the period for which it would have been current but for such surrender:

Provided that if the Excise Commissioner is satisfied that there is sufficient reason for surrendering a licence, he may remit to the holder thereof the sum so payable on surrender or any portion thereof.

(2) Sub-section (1) shall not apply in the case of any licence granted under section 17.

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CHAPTER VII.

OFFENCES AND PENALTIES.

32. Penalty for illegal import, etc.—Whoever, in contravention of this Act, or any rule, notification or order, made, issued or given thereunder, or of any licence or permit granted under this Act, imports, exports, transports, manufactures, collects or possesses any intoxicant, shall, on conviction, be punished with imprisonment for a term which may extend to six months and with fine:

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, a fin of not less than one hundred rupees shall be imposed:

Provided further that where the offence relates to the impor or manufacture of any intoxicant, the fine imposed shall not be less than four times the amount of duty leviable on such intoxicant or one hundred rupees whichever is more.

(2) Whoever in contravention on this Act, or of any rule, notification or order made, issued or given thereunder, or of any licence or permit granted under this Act,

(*a*) save in the cases provided for in section 36, sells any intoxicant ; or

(*b*) cultivates or fails to take the measures prescribed for checking the spontaneous growth or for the extirpation of the hemp plant.(* *) ; or

(*c*) taps or draws toddy from any toddy-producing tree ; or

(*d*) constructs or works any distillery or brewery ; or

(*e*) uses, keeps or has in his possession any materials, still, utensil, apparatus or implement whatsoever for the purpose of manufacturing any intoxicant other than toddy ; or

(*f*) removes any intoxicant from any distillery, brewery or warehouse licensed, established or continued under this Act ; or

(*g*) bottles any liquor ;

shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, a fine of not less than one hundred rupees shall be imposed.

33. Penalty for rendering denatured spirit fit for human consumption.—Whoever,—

(*a*) renders fit for human consumption any spirit, which has been denatured ; or

(*b*) has in his possession any spirit in respect of which he knows, or has reason to believe that any such offence has been committed or that an attempt to commit such an offence has been made ; shall, on conviction, be punished with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees, or with both.

Explanation.—For the purpose of this section, it shall be presumed, unless the contrary is proved, that any spirit which is proved on chemical analysis to contain any quantity of any of the prescribed denaturants, is, or contains, or has been derived from denatured spirit.

34. Penalty for illegal possession.—Whoever, without lawful authority has in his possession any quantity of any intoxicant knowing the same to have been unlawfully imported, transported, manufactured, cultivated or collected, or knowing the prescribed duty not to have been paid thereon, shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both :

Provided that the fine, if any, inflicted, shall not be less than four times the amount of duty leviable on such intoxicant.

35. Penalty for offence not otherwise provided for.—Whoever does any act in contravention of any of the provisions of this Act, or of any rule, notification or order made, issued or given thereunder, and not otherwise provided for in this Act, shall, on conviction, be punished with a fine which may extend to two hundred rupees.

36. Penalty for misconduct of licensee, etc.—(1) Whoever, being the holder of a licence or permit granted under this Act, or being in the employ of such holder and acting on his behalf,—

(*a*) fails to produce such licence or permit on the demand of any Excise Officer or of any other person duly empowered to make such demand ; or

(*b*) wilfully does or omits to do, anything in breach of any of the conditions of his licence, or permit, not otherwise provided for in this Act ; or

(*c*) save in a case provided for by section 32 wilfully contravenes any rule made under section 71 ; or

(*d*) permits drunkenness, disorderly conduct or gaming in any place wherein any intoxicant is sold or manufactured ; or

(*e*) permits or suffers persons whom he knows or has reason to believe to have been convicted of any non-bailable offence, or who are reputed prostitutes or habitual offenders, to resort to, or assemble or remain in or on the premises where any excisable article is sold or manufactured ; or

(*f*) sells any intoxicant to a person who is drunk ; or

(*g*) sells or gives any intoxicant to any child apparently under eighteen years of age or permits or suffers such child to remain in or on the premises where any excisable article is sold, or manufactured ; or

(*h*) in contravention of section 20 employs or permits to be employed on any part of his licenced premises referred to in that section any child or woman ;

shall, on conviction, be punished with imprisonment which may extend to three months or with fine which may extend to five hundred rupees, or with both.

(2) Where any holder of a licence or permit under this Act or any person in his employ or acting on his behalf is charged with permitting drunkenness on the premises of such holder, and it is proved that any person was drunk on such premises, it shall lie on the person charged to prove that the holder of the licence and the persons employed by him took all reasonable steps for preventing drunkenness on such premises.

37. Penalty for adulteration, etc., by licensed vender or manufacturer.—(1) Whoever, being the holder of a licence for the sale or manufacture of any intoxicant under this Act, or a person in the employ of such holder mixes or permits to be mixed with the intoxicant sold or manufactured by him, any noxious drug or any foreign ingredient likely to add to its actual or apparent intoxicating quality or strength, or any article prohibited by any rule made under this Act, when such admixure does not amount to an offence of adulteration under section 272 of the Indian Penal Code, shall, on conviction be punished with imprisonment for a term which may extend to three months and with fine which may extend to five hundred rupes.

(2) Whoever, being the holder of a licence for the sale or manufacture of any intoxicant under this Act, or a person in the employ of such holder,—

(*a*) sells or keeps or exposes for sale as foreign liquor, or liquor, which he knows or has reason to believe to be Indian liquor; or

(*b*) marks any bottle or the cork of any bottle, case, package, or other receptacle containing Indian liquor or uses any bottle, caser package or other receptacle containing Indian liquor, with any mark thereon or on the cork thereof, with the intention of causing it to be believed that such bottle, case, package or other receptacle contains foreign liquor, when such act shall not amount to the offence of using a false trademark with intention to deceive or injure any person under section 482 of the Indian Penal Code; or

(*d*) sells or keeps or exposes for sale any Indian liquor in a bottle, case, package or other receptacle with any mark thereon or on the cork thereof with the intention of causing it to be believed that such bottle, case, package or other receptacle contains foreign liquor, when such act shall not amount to the offence, of selling goods marked with counterfeit trade mark, under section 486 of the Indian Penal Code;

shall, on conviction, be punished with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees, or with both.

38. Penalty for consumption in Chemist's shop, etc.—(1) A chemist druggist, apothecary or keeper of a dispensary, who allows any intoxicant which has not been *bona fide* medicated for medicinal purposes to be consumed on his business premises by any person * *

* * shall, on conviction, be punished with imprisonment for a term which may extend to three months or with fine which may extend to one thousand rupees, or with both.

(2) Any person not employed as aforesaid, who consumes any such intoxicant on such premises shall, on conviction, be punished with fine which may extend to two hundred rupees.

39. Manufacture, sale or possession by one person on account of another.—(1) Where any intoxicant has been manufactured or sold

or is possessed by any person on account of any other person and such other person knows or has reason to believe that such manufacture or sale was or that such possession is, on his account, the article shall, for the purposes of this Act, be deemed to have been manufactured or sold by or to be in the possession of such other person.

(2) Nothing in sub-section (1) shall absolve any person, who manufactures, sells or has possession of any intoxicant on account of another person from liability to any punishment under this Act for unlawful manufacture, sale or possession of such article.

40. Presumption as to commission of offence in certain cases.—In prosecutions under section 32 and section 34, it shall be presumed, until the contrary is proved, that the accused person has committed the offence punishable under that section in respect of—

(*a*) any intoxicant; or

(*b*) any still, utensil, implement or apparatus whatsoever in the manufacture of any intoxicant other than toddy; or

(*c*) any materials which have undergone any process towards the manufacture of an intoxicant or from which an intoxicant has been manufactured,

for the possession of which he is unable to account satisfactorily.

41. Criminal liability of licensee for acts of servants.—Where any offence under section 32, section 33, section 34, section 36 or section 37 is committed by any person in the employ and acting on behalf of the holder of a licence or permit granted under this Act, such holder shall also be punishable as if he had comitted himself the said offence, unless he establishes that all due and reasonable precautions were exercised by him to prevent the commission of such offence:

Provided that no person other than the actual offender shall be punishable under this section with imprisonment, except in default of payment of fine.

42. Enhanced punishment after previous conviction.—If any person, after having been previously convicted of an offence punishable under section 32, section 33 section 34, section 37 or section 38 or under the

corresponding provisions in any enactment repealed by this Act, subsequently commits and is convicted of an offence punishable under any of these sections, he shall be liable to twice the punishment which might be imposed on a first conviction under this Act :

Provided that nothing in this section shall prevent any offence which might otherwise have been tried summarily under Chapter XXII of the Code of Criminal Procedure, 1898, from being so tried.

43. Liability of certain things to confiscation.—Whenever an offence has been committed, which is punishable under this Act, the following things shall be liable to confiscation, namely :—

(1) any intoxicant, materials, still, utensil, implement or apparatus in respect of, or by means of which, such offence has been committed ;

(2) any intoxicant lawfully imported, transported, manufactured, had in possession or sold along with, or in addition to, any intoxicant liable to confiscation under clause (1) ; and

(3) any receptacle, package, or covering in which anything liable to confiscation under clause (1) or clause (2), is found, and the other contents, if any, of such receptacle, package or covering and any animal, vehicle, vessel, raft or other conveyance used for carrying the same :

Provided that, if anything specified in clause (3) is not the property of the offender, it shall not be confiscated if the owner thereof had no reason to believe that such offence was being or was likely to be committed.

44. Order of confiscation.—(1) Where in any case tried by him, the Magistrate decides that anything is liable to confiscation under section 43, he may either order confiscation or may give the owner of the thing liable to be confiscated an option to pay in lieu of confiscation such fine as the Magistrate thinks fit.

(2) When an offence under this Act has been committed, but the offender is not known or cannot be found, or when anything liable to confiscation under this Act, and not in the possession of any person cannot be satisfactorily accounted for, the case shall be

inquired into and determined by the Excise Commissioner or by any other officer authorised by the State Government in that behalf, who may order such confiscation :

Provided that no such order shall be made until the expiration of one month from the date of seizing the goods intended to be confiscated or without hearing the persons, if any, claiming any right thereto, and the evidence, if any, which they produce, in support of their claims :

Provided further that if the thing in question is liable to speedy and natural decay, or if the Excise Commissioner or the authorised officer is of opinion that the sale would be for the benefit of its owner, he may at any time direct it to be sold and the provisions of this section shall, as nearly as may be practicable, apply to the net proceeds of such sale.

45. Compounding of offences.—(1) The Excise Commissioner, the Deputy Commissioner, or any Excise Officer specially empowered in that behalf may accept from any person whose licence or permit is liable to be cancelled or suspended under clause (*a*) or clause (*b*) of sub-section (1) of section 29 or who is reasonably suspected of having committed an offence under sub-section (2) of section 32, section 33, section 34, section 35, section 36 or sub-section (2) of section 37, a sum of money not exceeding one thousand rupees and subject to such minim a as may be prescribed, in lieu of such cancellation or suspension or by way of compensation for the offence which may have been committed, as the case may be ; and in all cases in which any property has been seized as liable to confiscation under this Act, may release the same on payment of the value thereof as estimated by such officer.

(2) On the payment by such person of such sum of money or such value or both, as the case may be, such person, if in custody, shall be set at liberty and all the property seized may be released and no proceedings shall be instituted against such person in any Criminal Court. The acceptance of compensation shall be deemed to amount to an acquittal and in no case shall any further proceedings be taken against such person or property with reference to the same act.

46. Penalty on Excise Officer making vexatious search, seizure, detention or arrest.—Any Excise Officer or other person who vexatiously and without reasonable ground for suspicion—

(*a*) enters or searches or causes to be entered or searched any closed place under colour of exercising any power conferred by this Act, or

(*b*) seizes the moveable property of any person on the pretext of seizing or searching for any article liable to confiscation under this Act, or

(*c*) searches, detains or arrests any person, or

(*d*) in any other way exceeds his lawful powers under this Act, shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees, or with both.

47. Penalty for Excise Officer refusing to do duty.—Any Excise Officer, who, without lawful excuse shall cease or refuse to perform or withdraws himself from, the duties of his office, unless expressly allowed to do so in writing by the Excise Commissioner, or unless he shall have given to his official superior officer two months' notice in writing of his intention to do so, or who shall be guilty of cowardice, shall, on conviction, be punished with imprisonment, which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

48. Penalty for vexatious delay.—Any officer or person exercising powers under this Act, who vexatiously and unnecessarily delays forwarding to the nearest Excise Officer or to the officer in charge of the nearest police station, as required by sub-section (2) of section 59, any person arrested, shall, on conviction, be punished with fine which may extend to two hundred rupees.

49. Penalty for abetment of escape of persons arrested, etc.—Any officer or person who unlawfully releases or abets the escape of any person arrested under this Act or abets the commission of any offence against this Act, or acts in any manner inconsistent with his duty for the purpose of enabling any person to do anything whereby any of the provisions of this Act may be evaded or contravened or the

excise revenue may be defrauded and any officer of any other Department referred to in section 50 who abets the commission of any offence against this Act in any place, shall, on conviction, for every such offence, be punished with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees, or with both.

CHAPTER VIII.

DETECTION, INVESTIGATION AND TRIAL OF OFFENCES.

50. Landholders, officers and others to give information.—(1) Whenever any intoxicant is manufactured or collected, or any hemp plant is cultivated, in or on any land or building, in contravention of this Act—

(*a*) all owners and occupiers of such land or building or their agents, and

(*b*) (i) village officers or servants including members of the village police,

(ii) Chairman, members and officers of the village panchayat, and

(iii) all officers (other than Excise Officers), employed in the collection of revenue or rent of land on behalf of the State Government, or a local authority in the locality in which such land or building is situate,

shall, in the absence of reasonable excuse, be bound to give notice of the fact to a magistrate or to an officer of the Excise or Police or Revenue Department as soon as the fact comes to their knowledge.

(2) Every Excise Officer shall be bound to give immediate information either to his immediate official superior or to an Excise Inspector, of all breaches of any of the provisions of this Act, which may come to his knowledge under sub-section (1) or otherwise.

(3) All such officers, members or servants as are referred to in sub-section (1) shall be bound—

(*a*) to take all reasonable measures in their power to prevent the commission of such breaches which they may know, or have reason to believe are about or likely to be committed; and

(*b*) to assist the Excise Commissioner in carrying out the provisions of this Act.

51. Power to enter and inspect places of manufacture and sale.—The Excise Commissioner or a Deputy Commissioner or any Excise Officer not below such rank as may be prescribed, or any Police Officer duly empowered in that behalf, may—

(*a*) enter and inspect, at any time, by day or by night, any place in which any licensed manufacturer manufactures or stores any intoxicant, and

(*b*) enter and inspect at any time within the hours during which sale is permitted, and at any other time during which the same may be open, any place in which any intoxicant is kept for sale by any person holding a licence under this Act; and

(*c*) examine accounts and registers and examine, test, measure or weigh any materials, stills, utensils, implements, apparatus, or intoxicant found in such place.

52. Power to arrest without warrant, to seize articles liable for confiscation and to make searches.—(1) Any officer of the State Government, employed in the Excise, Police or Revenue Departments of the State, subject to such restrictions as may be prescribed, and any other person duly empowered, may—

(*a*) arrest without warrant any person found committing an offence punishable under section 32, section 33, section 34, section 36 or section 37;

(*b*) seize and detain any excisable or other article which he has reason to believe to be liable to confiscation under this Act, or any other law for the time being in force relating to excise revenue; and

(*c*) detain and search any person upon whom, and any vessel, raft, vehicle, animal, package, receptacle or covering in or upon which, he may have reasonable cause to suspect any such article to be.

(2) When any person is accused or is reasonably suspected of committing an offence under this Act, other than an offence under

section 32, section 33, section 34, section 36 or section 37 and on demand of any such officer as aforesaid, refuses to give his name and residence or gives a name and residence which such officer has reason to believe is false, he may be arrested by such officer, in order that his name and residence may be ascertained.

53. Power of magistrate to issue a warrant.—If a magistrate, upon information and after such enquiry (if any) as he thinks necessary, has reason to believe that an offence under section 32, section 33, section 34, section 36 or section 37 has been, is being or is likely to be committed, he may issue a warrant—

(*a*) for the search of any place in which he has reason to believe that any intoxicant, still, utensil, implement, apparatus or materials which are used for the commission of such offence or in respect of which such offence has been, is being, or is likely to be committed, are kept or concealed, and

(*b*) for the arrest of any person whom he has reason to believe to have been, to be, or to be likely to be engaged in the commission of any such offence.

54. Power to search without warrant.—Whenever the Excise Commissioner or a Deputy Commissioner or any Police Officer not below the rank of an officer in charge of a Police Station or any Excise Officer not below such rank as may be prescribed, has reason to believe that an offence under section 32, section 33, section 34, section 36 or section 37 has been, is being, or is likely to be committed, and that a search warrant cannot be obtained without affording the offender an opportunity of escape or of concealing evidence of the offence, he may, after recording the grounds of his belief—

(*a*) at any time by day or by night enter and search any place and seize anything found therein which he has reason to believe to be liable to confiscation under this Act; and

(*b*) detain and search and, if he thinks proper, arrest any person found in such place whom he has reason to believe to be guilty of such offence as aforesaid.

55. Power of Excise Officers in matters of investigation.—(1) Any Excise Inspector or any Excise Officer not below such rank and within such specified area as the State Government may, by notification, prescribe, may, as regards offences under section 32, section 33 section 34, section 36 or section 37 exercise powers conferred on an officer in charge of a police station by the provisions of the Code of Criminal Procedure, 1898:

Provided that any such power shall be subject to such restrictions and modifications, if any, as the State Government may prescribe.

(2) For the purposes of section 156 of the said Code, the area in regard to which an Excise Inspector is empowered under subsection (1) shall be deemed to be a police station and such officer shall be deemed to be the officer in charge of such station.

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56. Report by Investigating Officer.—If, on any investigation by an Excise Inspector or an Excise Officer empowered under subsection (1) of section 55 it appears that there is sufficient evidence to justify the prosecution of the accused, the Investigating Officer,

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shall submit a report (which shall, for the purposes of section 190 of the Code of Criminal Procedure, 1898, be deemed to be a police report), to a Magistrate having jurisdiction to inquire into or try the case and empowered to take cognizance of offences on police reports.

57. Report by Excise Officer.—Where any Excise Officer below the rank of an Inspector makes any arrest, seizure or search under this Act, he shall, within twenty-four hours thereafter—

(*a*) make a full report of all the particulars of the arrest seizure or search to his immediate official superior, and

(*b*) unless bail be accepted under section 59, take or send the person arrested or the thing seized, with all convenient despatch, to a Magistrate for trial or adjudication.

58. Arrest, search, etc., how to be made.—Any person arrested under this Act shall be informed, as soon as may be, of the grounds for such arrest and save as in this Act otherwise expressly provided, the provisions of the Code of Criminal Procedure, 1898, relating to arrests, detention in custody, searches, summonses, warrants of arrests, search-warrants, the production of persons arrested and the disposal of things seized, shall apply, as far as may be, to all action taken in these respects under this Act.

59. Security for appearance in case of arrest without warrant.—(1) The State Government may, by notification, empower any Excise Officer to release on bail persons arrested under this Act, otherwise than on a warrant.

(2) When a person is arrested under this Act, otherwise than on a warrant, by a person or officer who is not authorised to release arrested persons on bail, he shall be produced before or forwarded to,—

(*a*) the nearest Excise Officer who has authority to release arrested persons on bail, or

(*b*) the nearest officer in charge of the Police station,

whoever is nearer.

(3) Whenever any person arrested under this Act, otherwise than on a warrant, is prepared to give bail, and is arrested by or produced in accordance with sub-section (2) before an officer who has authority to release arrested persons on bail, he shall be released on bail or at the discretion of the officer releasing him, on his own bond.

(4) The provisions of sections 499 to 502, section 513, section 514 and section 515 of the Code of Criminal Procedure, 1898, shall apply, so far as may be, in every case, in which bail is accepted or, bond taken under this section.

60. Procedure for prosecution.—No Magistrate shall take cognizance of an offence punishable—

(*a*) under section 35 or section 38 except on the complaint or report of the Deputy Commissioner or of an Excise Officer authorised by the Deputy Commissioner in this behalf, or

(*b*) under any other section of this Act other than section 46 or section 48, except on his own knowledge or suspicion or on the complaint or report of an Excise or Police Officer.

CHAPTER IX

APPEALS AND RVISION.

61. Appeals.—(1) Any person aggrieved by an order passed by any officer other than the Excise Commissioner or the Deputy Commissioner under this Act, may, within sixty days from the date of communication of such order, appeal to the Deputy Commissioner.

(2) Any person aggrieved by an order passed by the Deputy Commissioner under this Act, may, within ninety days from the date of communication of such order, appeal to the Excise Commissioner.

(3) Any person aggrieved by an order passed by the Excise Commissioner under sub-section (2), may, within ninety days from the date of communication of such order appeal to the Mysore Revenue Appellate Tribunal.

(4) Subject to the foregoing provisions, appeals under this section, shall be subject to the rules which the State Government may make in this behalf.

62. Revision.—The State Government may call for and examine the records of any proceedings before any officer including those relating to the grant or refusal of a licence, or permit, for the purpose of satisfying itself as to the correctness, legality or propriety of any order passed in, and as to the regularity of such proceedings and may either annul, reverse, modify or confirm such order or pass such other order as it may deem fit:

Provided that no order shall be annulled, reversed or modified except after giving a reasonable opportunity of being heard to the person affected by that order.

CHAPTER X.

MISCELLANEOUS.

63. Recovery of Government dues.—(1) The following moneys, namely :—

(*a*) all excise revenue,

(*b*) any loss that may accrue when, in consequence of default, a grant has been taken under management by the Deputy Commissioner, or has been re-sold by him, and

(*c*) of amounts due to the Government by any person on account of any contract relating to the excise revenue,

may be recovered from the person primarily liable to pay the same or from his surety, if any, as if they were arrears of land revenue.

(2) When a grant has been taken under management by the Deputy Commissioner, or has been re-sold by him, the Deputy Commissioner he may recover, in the manner authorised by sub-section (1), any money due to the defaulter by any lessee or assignee.

64. Government lien on property of defaulters.—In the event of default by any person licensed or holding lease under this Act, all his distillery, brewery or warehouse or shop buildings, fittings or apparatus, and all stocks of intoxicants or materials for the manufacture of the same held in or upon any distillery, brewery, warehouse or shop or premises, shall be liable to be attached in satisfaction of any claim for excise revenue, or in respect of any losses incurred by the State Government through such default and to be sold to satisfy such claim which shall be a first charge upon the sale proceeds.

65. Recovery of dues by lessee under section 17.—Any person to whom a lease has been granted in accordance with the provisions of section 17, may, in a case where sub-letting is not forbidden by the terms of the lease, proceed against any person holding under him for the recovery of any money due in respect of such sub-lease or

holding, as if it were an arrear of rent recoverable under the law for the time being in force with regard to land-lord and tenant :

Provided that nothing in this section shall affect the right of any such grantee to recover any such money by a civil suit.

66. Refund in cases of exported liquor.—Where excise duty has been levied in respect of the manufacture or production of any liquor in the State and such liquor is subsequenty exported to any other State in India and is subjected to excise or countervailing duty in that State, the Excise Commissioner may on production of proof of such payment of duty, grant refund of duty already paid to such extent as the State Government may prescribe :

Provided that where the State Government so directs, the Excise Commissioner may, permit during such period or periods as may be specified in such direction, the export of any liquor on which excise duty is payable, on the furnishing of adequate security for payment of the excise duty due thereon ; and, on production of proof of payment of countervailing duty on such liquor in any other State, give rebate to the extent prescribed under this section and collect the balance of the excise duty.

67. Power of State Government to exempt, etc.—The State Government may, by notification, and subject to such restrictions and conditions as may be specified in such notificaion,—

(*a*) exempt or reduce the excise duty levied under section 2 on any liquor sold,

(i) for use or consumption by the members of the Armed Forces of the Union ; or

(ii) for use for *bona fide* medicinal, scientific, industrial or such like purpose ;

(*b*) exempt any intoxicant from any of the provisions of this Act, other than those of Chapter V, in any specified area or for any specified period or occasion

68. Protection of action taken under this Act.—No suit or other legal proceeding shall lie against the State Government or any Excise Officer or any other person empowered to exercise powers or to

erform the functions under this Act for anything in good faith done r intended to be done under this Act.

69. Limitation of suits.—No suit shall lie against the State overnment or against an Excise Officer other than a suit by the tate Government, in respect of anything done or alleged to have one in pursuance of this Act, unless the suit is instituted within x months from the date of the act complained of.

70. Offences by companies, etc.—(i) If the person committing n offence under this Act is a company, the company as well as every erson in charge of, and responsible to the company for the conduct f its business at the time of the commission of the offence shall be eemed to be guilty of the offence and shall be liable to be proceeded gainst and punished accordingly :

Provided that nothing contained in this sub-section shall nder any such person liable to any punishment if he proves that he offence was committed without his knowledge or that he exercised l due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), here an offence under this section has been committed by a company d it is proved that the offence has been committed with the consent connivance of, or that the commission of the offence is attributable any neglect on the part of any Director, Manager, Secretary, or her officer of the Company, such Director, Manager Secretary or her Officer shall also be deemed to be guilty of that offence and all be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals, and

(b) "director", in relation to a firm, means a partner in the firm.

71. Power to make rules.—(1) The State Government may, by ification and after previous publication, make rules to carry out purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing provision, the State Government may make rules—

(*a*) prescribing the powers and duties of Excise Officers;

(*b*) regulating the delegation of any power by the Excise Commissioner or the Deputy Commissioner under section 7;

(*c*) [* * * *
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* * prescribing the time and manner of presenting appeals and the procedure for dealing with appeals;

(*d*) regulating the import, export, transport, manufacture, cultivation, collection, possession, supply or storage of any intoxicant and may, by such rules, among other matters—

(i) regulate the tapping of toddy-producing trees, the drawing of toddy from such trees, the marking of the same, and the maintenance of such marks;

(ii) declare the process by which spirit shall be de-natured and the denaturation of spirit ascertained; and

(iii) cause spirit to be denatured through the agency or under the supervision of its own officers;

(*e*) regulating the periods and localities in which, and the persons or classes of persons to whom, licences for the wholesale or retail sale of any intoxicant may be granted and regulating the number of such licences which may be granted in any local area;

(*f*) prescribing the procedure to be followed and the matters to be ascertained before any licence for such sale is granted for any locality;

(*g*) regulating the time, place and manner of payment of any duty or fee and the taking of security for the due payment of any duty or fee;

(*h*) prescribing the authority by which, the form in which and the terms and conditions on and subject to which any licence or permit shall be granted, and may, by such rules, among other matters,—

(i) fix the period for which any licence or permit shall continue in force;

(ii) prescribe the scale of fees, or the manner of fixing the fees payable in respect of any lease, licence or permit, or the storing of any excisable article;

(iii) prescribe the amount of security to be deposited by the holders of any licence or permit for the performance of the conditions of the same;

(iv) prescribe the accounts to be maintained and the returns to be submitted by licence holders;

(v) prohibit or regulate the transfer of licences; and

(vi) prescribe the ages under which it shall be unlawful to employ children and to sell or give to children excisable articles;

(*i*) providing for the destruction or other disposal of any intoxicant deemed to be unfit for use;

(*j*) regulating disposal of confiscated articles;

(*k*) regulating the grant of expenses to witnesses and to persons charged with offences under this Act, and subsequently released or acquitted;

(*l*) regulating the power of Excise Officers to summon witnesses;

(*m*) Prescribing the rent payable to the Government in respect of toddy trees from which toddy is drawn;

(*n*) any other matter that may be prescribed under this Act.

(3) A rule under this Act may be made with retrospective effect and when such a rule is made the reasons for making the rule shall be specified in a statement laid before both Houses of the State Legislature. Subject to any modification made under sub-section (4), every rule made under this Act shall have effect as if enacted in this Act.

(4) Every rule-made under this section shall be laid as soon as may be after it is made, before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session in which it is so laid or the sessions immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

72. **Repeal and saving.**—The following enactments namely :—

(*a*) the Mysore Excise Act, 1901 (Mysore Act IV of 1901);

(*b*) The Abkari Act, 1316-F (Hyderabad Act I of 1316- F. and the Intoxicating Drugs Act, 1333-F.-(Hyderabad Act I V of 1333F.)

(*c*) The Madras Abkari Act, 1886, Madras Act (I of 1886) shall stand repealed:

Provided that section 6 of the Mysore General Clause Act, 1899 (Mysore Act 3 of 1899) shall be applicable in respect of such repeal, and section 8 and section 24 of the said Act shall be applicable as if the said enactments were enactments within the meaning of the said Act and had been repealed and re-enacted by this Act.

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EX .E.